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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,542	05/16/2001	Rajesh Manchanda	BERLX-100	9728

23599 7590 12/20/2004

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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/855,542

Applicant(s)

MANCHANDA, RAJESH

Examiner

Shahnam Sharareh

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

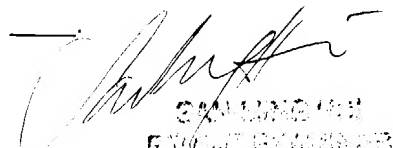
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-4, 6, 8-14, 16, 18-22 and 32-34Claim(s) withdrawn from consideration: 7, 17

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


SHAHNAM SHARAREH
Examiner

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record. Primarily all arguments have been addressed on the record and on the final rejection filed on July 1, 2004. Applicant has first argued that Bannerjee is not prior art to the instant application. Due to Applicant's obtaining the provisional application disclosure Examiner maintains position that Bannerjee is a competent prior art. Second, Applicant has argued that there is no motivation in the primary reference, Miller, to use the iodide ions of Bannerjee. In response Examiner states that such position is not correct. Examiner points out that Miller US Patent 6,174,513, the primary reference, the use of suitable salts such as KCl, NaCl, CaCl₂.. to improve stabilization of the radiolabeled compounds. Thus there is no teaching in the primary reference to discourage the use of other suitable salts in Miller's composition. In fact, the use of suitable salts are encouraged by Miller. Bannerjee is then used to show that sodium iodide or potassium iodide are expected to act the same as NaCl, KCl or CaCl₂ or supplement their properties. (see para 0056). Therefore, adding or substituting an amount of such functional equivalents are expected to provide similar results or enhance its physical properties. Third, Applicant appears to argue that one of ordinary skill in the art could not have expected from the teachings of Bannerjee that the two iodide agents out of the 70 agents could be added to the compositions of Miller. In response Examiner states that there is no teachings in either art to prohibit such combination. Thus, having one or 70 different combinations which are obvious, would still meet the limitations of the instant claims..